

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

Respondent,

No. CR S-82-0080 LKK JFM P

vs.

WILLIAM EDDIE MCDANIELS,

Movant.

ORDER

On November 30, 2004, movant, a former county jail inmate proceeding pro se, filed a motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255. By order filed February 1, 2005, movant's original motion was dismissed with leave to file an amended pleading. In the February 1, 2005 order, movant was informed that any challenge to actions by the United States Parole Commission in connection with the execution of his federal prison sentence should be brought by a petition for writ of habeas corpus pursuant to 28 U.S.C § 2241, rather than in a § 2255 motion. (See Order filed February 1, 2005, at 2, citing White v. Lambert, 370 F.3d 1002, 1009 (9th Cir. 2004).) Movant was further informed that a § 2241 petition should be filed as a new action. (Id.)

On April 27, 2005, movant filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The petition challenges a decision by the United States Parole Commission not

1 to credit street time against a sentence imposed following a determination that petitioner had
2 violated parole. Good cause appearing, the Clerk of the Court will be directed to remove
3 petitioner's § 2241 petition from the instant action, to open a new civil action, and to randomly
4 assign said action to a new district judge and magistrate judge.¹

5 In accordance with the above, IT IS HEREBY ORDERED that:

6 1. The Clerk of the Court is directed to remove movant's § 2241 petition, filed
7 April 27, 2005, from the record in this action, to open a new civil action with said petition, and to
8 randomly assign said action to a district judge and a magistrate judge;

9 2. The Clerk of the Court shall notify movant of the case number assigned to the
10 new action and henceforth all documents shall be filed in that action;

11 3. The Clerk of the Court shall forward the new action to the magistrate judge
12 assigned thereto;

13 4. The Clerk of the Court is directed to close the companion civil Case No. CIV
14 S-04-2541 LKK JFM P; and

15 5. The Clerk of the Court is directed to send movant the court's form application
16 for leave to proceed in forma pauperis.

17 DATED: June 3, 2005.

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19 
20 UNITED STATES MAGISTRATE JUDGE

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26 ¹ Petitioner is informed that he will be required to either pay the \$5.00 filing fee for a habeas corpus action or to file a motion for leave to proceed in forma pauperis in the new action.